



Section 504 & Responsibilities of the 504 Coordinator

Fall 2023-24

About ODE

- The Oregon Department of Education works in partnership with school districts, education service districts and community partners to foster equity and excellence for every learner;
- Together, we serve over 560,907* K-12 students and support 75,807* school employees, including teachers, administrators and classified staff;
- We believe every student should have access to a high-quality, well-rounded learning experience; and
- We work to ensure every student in Oregon graduates with a plan for their future.

*Data from October 2021

About your Presenters

Karin Moscon (she/her)

Civil Rights Specialist, ODE

- Title VI, Section 504, Title II of ADA, Title IX, The MOA Program
- 30 years in public education as a middle school and high school teacher and administrator, District administrator, and University instructor
- 11 years as a civil rights specialist

Marinda Peters (she/ella)

Civil Rights Specialist, ODE

- Title VI, Section 504 and Title II of the ADA
- 18 years in public education, primarily as a school counselor & 504 Coordinator
- Masters in Counseling Psychology
- PhD in Counseling

Goals

Using a scenario we will:

- Review disability civil rights law and the obligation of nondiscrimination
- Describe the role and responsibilities of the 504 coordinator
- Outline investigation procedures
- Problem-solve appropriate response to disability-based harassment and discrimination



Norms

Use Zoom Etiquette

- Mute
- Use chat
- Participate in breakout rooms

Use Conference Etiquette

- Make sure questions are relevant to the content
- Make sure questions are relevant for all
- Email to request consultation

Take Care of Yourself and your Learning

This training will have a peppy-pace. If questions cannot be answered today, please attend **504 Office Hours** the 2nd Tuesday of the month 3:00-4:00pm. Details distributed through the [ODE 504 listserv](#)

This training is not intended as legal advice and should not be taken as such; we advise you to consult with your legal counsel before making policy or process changes.

ODE is available to support with individual technical assistance following this training.

Scenario: Elias

Elias is a 2nd grade student who attends Deskahootees Elementary School. Elias has a diagnosis of autism spectrum disorder and performs academically above average. Examples of his neurodivergence are sensitivity to certain sensory input including sound, a stress response with changes in routine, social communication differences, and a hyper-focused interest in trains. Deskahootees Elementary prides itself on building a strong school community. One strategy has been to have weekly all-school assemblies.

On days that his class attends the assemblies, Elias becomes agitated and shows signs of distress, often rocking, yelling and covering his ears either before or during the assembly. Classmates will sometimes laugh at Elias and make loud “choo-choo” sounds when he is agitated. To reduce these incidences, Elias’ teacher sends him to the school’s focus room during the assemblies so that he is adequately supervised. The only other students in the focus room have been sent there because they are “in trouble”. Elias’ mom calls the secretary and requests a meeting to understand why Elias is being punished for behaviors related to his disability.



Photo by Jakayla Toney on unsplash

Reflection

What stands out to you in this scenario?

What questions or concerns come up for you?

Who should attend the meeting that Elias' mom requested?

Discrimination in Oregon

“Discrimination” means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, **disability**, national origin, race, color, marital status, religion, sex, sexual orientation, or gender identity

OAR 581-021-0045

Section 504: Federal Civil Rights Law

Section 504 of the Rehabilitation Act of 1973

Federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: ***"No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance"*** [34 CFR 104.4](#)

The Section 504 regulations require a school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability [34 CFR 104.33](#)



Institutions Responsible for Section 504

Any institution receiving federal funds, like:

- Public schools
- Charter schools
- Magnet programs
- After school programs
- Athletics (OSAA)
- Nutrition Services
- Colleges and universities



When 504 Protections are in Place

Protections are in place in [academic and nonacademic settings](#) (34 CFR 104.34)

For example:

- Class time
- AP and advanced courses
- Breakfast/Lunch
- Free time
- After school activities
- Athletic events
- Field trips
- School events

A school/district cannot deny access of benefit from any part of the student's "education"



Students Protected Under Section 504

A student determined to:

- Have a physical or mental impairment
- That substantially limits
- One or more major life activities

OR... Have a record of such an impairment

OR... Be regarded as having such an impairment

[34 CFR 104.3\(j\)](#)

The impairment can be temporary (case-by-case); episodic, in remission, and mitigating measures cannot be considered when determining the level of impairment (except regular eye glasses)

Defining Substantial Impairment

Substantial

Condition under which an individual can perform a major life activity as compared to the average person in the general population who can perform the same activity

Consider time/effort it takes to perform the MLA

Impairment & MLAs

Non-exhaustive

Do not need to be “educational” activities

504 Protections & Obligations

504 Coordinator and discrimination complaint procedures [34 CFR 104.7](#)

- Required notice of this information [34 CFR 104.8](#)

Evaluation and placement procedures [34 CFR 104.35](#)

Access to a FAPE through a 504 plan, if needed [34 CFR 104.33](#)

Parent/student rights and procedural safeguards [34 CFR 104.36](#)

Prohibition of school exclusion due to disability-related behaviors (MDR) [\(OCR, 2022 p. 14\)](#)

Required process for district response to disability-based harassment [\(OCR, 2014\)](#)

Let's go back to Elias...

Is Elias protected under Section 504?

Has Elias been

- excluded from the participation in or denied the access to educational benefits?
- subjected to discrimination or disability-based harassment?
- receiving a free appropriate public education (FAPE)?

What is the district's obligation under Section 504?

What is the 504 coordinator's role in supporting compliance to Section 504 in this case?

Role of the District 504 Coordinator

Under [Section 504](#) of the Rehabilitation Act of 1973, each school district that receives federal financial assistance must designate at least one employee to coordinate the district's compliance with its responsibilities under Section 504.

While school districts may determine additional job requirements, the Section 504/ADA Coordinator is, at a minimum, responsible for:

1. Coordinating and monitoring the district's compliance with Section 504 as well as state civil rights requirements regarding discrimination and harassment based on disability;
2. Overseeing prevention efforts to avoid Section 504 violations from occurring;
3. Implementing the district's discrimination complaint procedures with respect to allegations of Section 504/ADA violations, discrimination based on disability, and disability harassment; and
4. Investigating complaints alleging violations of Section 504/ADA, discrimination based on disability, and disability harassment.
5. Overseeing the implementation of any measures put into place as the result of an investigation

When the case manager is not the coordinator

The case manager

- Acts as a facilitator to the process
- Relies on the 504 team to avoid unilateral decision making
- Uses processes and procedures under the direction of the 504 coordinator
- Consults with the 504 coordinator, as appropriate
- Reports disability-based discrimination and harassment to the 504 coordinator for investigation

Investigations

1. Discriminatory Harassment
2. Investigation Procedure
3. Complaint Procedures



Discriminatory Harassment Based on Disability

School must investigate possible discriminatory harassment **as soon as they know or reasonably should know**— even if the parent or student do not file a complaint.

Investigations:

1. prompt and equitable
2. thorough, providing parties the opportunity to submit evidence relevant to the complaint
3. investigation usually includes:
 - a. evidence collection
 - b. interviews
 - c. facility and/or document reviews
4. written report and method for retaining files
5. written decision to both parties
6. appeal procedures

Complaint Procedures

1. What are your District's Procedures for complaints of discrimination?
 - a. Is there a separate process for 504?
2. How are parents, staff, and third parties aware of the policy and procedures?
 - a. Is this available in the languages of the communities served in your service area?
 - b. Required Notice of Nondiscrimination located in the footer of school/district websites with link to complaint procedures ([OAR 581-021-0045](#))

Let's go back to Elias...

At the meeting with Elias' mom, the following staff members attended: the classroom teacher Ms. Lori, the principal, and the district 504 coordinator. During the meeting, Elias' mom said that the school was discriminating against her son because he is on the autism spectrum. She said they were inappropriately requiring Elias to go to the focus room during school assemblies and he should have a plan in place so he doesn't feel punished for having a disability.

Ms. Lori responded that this plan *was* to keep Elias from becoming upset and a target of bullying by classmates. She said she has always had his best interest in mind. Elias' mom responded that she had not heard about the bullying and should have been contacted. She went on to say that the bullying probably explains why he says he doesn't like school anymore and doesn't want to go to Deskahootees Elementary.

Self Reflection: What should the investigation look like in this case? What should be investigated and by whom?



Responding to disability-based discrimination

Ensure access to FAPE: *“bullying on any basis of a student with a disability who is receiving IDEA FAPE services or Section 504 FAPE services can result in the denial of FAPE that must be remedied under Section 504” (OCR, 2014)*

Responding to disability-based harassment

- **Stop the harassment**
- **Eliminate the hostile environment**
- **Remedy the effects**
- **Act to prevent recurrence.**

A key part of the response process is keeping the harmed party safe from further harassment.

- Safety and support plan (formal or informal)
- The harmed party should not bear the majority of the burden for their safety from discriminatory harassment

Also key: intervention and restorative processes

- Depending on the severity, intervention can start with educational conversations and monitoring, and can escalate up to behavioral plans, suspension, or even expulsion.
- Restorative process can support, but are not appropriate in all cases.

How to prevent recurrence

Training and education:

- Annual training for 504 coordinators and case managers
- Required targeted trainings for all administrators
- PD for building level staff
- Educating students

PD for ALL School Staff

Responding to disability-based harassment

- How to respond to students
- How to respond to staff
- Who to report to

FAPE and responsibilities to uphold accommodation plan requirements

Disability-based discrimination

Child find and when to refer

Training and Education for Students

Student-to-Student Disability-Based Harassment ([OCR, 2014](#))

What universal strategies does your district utilize to educate student on protected class/disability-based harassment?

- Education on recognizing disability-based harassment
- Education on how to report the harassment
- Others?

Let's go back to Elias...

The 504 Coordinator completed the investigation and reported the following findings:

- Elias was being denied access to FAPE because he was not referred and evaluated for 504 eligibility and subsequently wasn't provided a 504 plan to meet his individual needs
- Elias experienced disability-based discrimination when he was placed in the focus room to "prevent" disability-related behavior
- Elias experienced disability-based harassment by his classmates and staff did not respond appropriately

In the chat: What are the district's next steps in preventing recurrence and making the student student whole?

Wrap-Up

Topics Covered

- Section 504 as disability civil rights law and the obligation of nondiscrimination
- Role and responsibilities of the 504 coordinator
- Investigation procedures
- Appropriate response to disability-based harassment and discrimination

Intersecting Laws -SB 819 as Disability Civil Rights

Students & Families

Equal Access & Disability Civil Rights

- All students have the right to a full school day
- Removal from school is neither a support nor a service
- ASDP is only by parent choice - informed and ongoing consent

School District

Investigation

If Department of Education receives a complaint or otherwise has cause to believe a school district is not in compliance

Enforcement

- Compensatory education
- Withholding of state school funds
- Superintendent TSPC discipline

Ensuring Nondiscrimination when Applying SB 819

Denying a student with a disability access to a program/school/class, etc. on the basis of their disability could be **discrimination**.

To universally decide that no student with a disability can participate in a program because it fits the ASDP definition under SB 819 may be against federal and state civil rights laws and districts' nondiscrimination policies.

This includes access to (but not limited to) public charter schools, hybrid classes, programs of study, electives, and rights enjoyed by nondisabled peers.

A discrimination complaint may be filed at the local level and appealed at the state level. Complainants can also file at the federal level with the US DOE Office for Civil Rights (OCR)



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Contact Us

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